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DECISION



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**THE COMPTROLLER GENERAL
OF THE UNITED STATES**
WASHINGTON, D. C. 20548

FILE: B-206501

DATE: March 2, 1982

MATTER OF: Microtech Industries

DIGEST:

GAO does not review an agency decision to set aside or not set aside contracts for 8(a) award because of the broad discretion the Small Business Act has given contracting officials for this purpose, unless there is a showing of fraud or bad faith on the part of Government officials.

Microtech Industries protests the use of negotiation rather than formal advertising for the procurement of micrographic services by the National Technical Information Service, Department of Commerce under requisition No. AA-81-SAC-Q5599. According to Microtech, the requirement is being procured under the Small Business Administration's (SBA) 8(a) program rather than by unrestricted competition.

Section 8(a) of the Small Business Act, 15 U.S.C. § 637(a) (Supp. III 1979), authorizes SBA to enter into contracts with any Government agency with procuring authority and to arrange the performance of such contracts by letting subcontracts to socially and economically disadvantaged small business concerns. The statute authorizes the procuring agency's contracting officer to award the contract to SBA "in his discretion." In light of the broad discretion given contracting officials by statute to let contracts to SBA, we do not review an agency decision to set aside or not set aside contracts for 8(a) award, unless there is a showing of fraud or bad faith on the part of Government officials. Jazco Corporation, B-197550, February 13, 1980, 80-1 CPD 132; Harris System Pest Control, Inc., B-199636, May 27, 1981, 81-1 CPD 413. Neither fraud nor bad faith is involved here, and we will, therefore, not consider the protest.

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The protest is dismissed.

Harry R. Van Cleve
Harry R. Van Cleve
Acting General Counsel